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9
10 UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
11 PORTLAND DIVISION

12 ISAIAH A. GONZALEZ,

13 Plaintiff,

14 v.

15 GIBBS INTERNATIONAL, INC. dba
16 GIBBS TRUCK CENTERS, a Foreign
Corporation; and MAXON INDUSTRIES,
17 INC. dba MAXON LIFT CORP., a Foreign
Corporation,

18 Defendants.

CASE NO. 3:21-cv-01844

(REMOVED FROM MULTNOMAH
COUNTY CIRCUIT COURT, CASE NO.
21CV45634)

DEFENDANT MAXON INDUSTRIES,
INC. DBA MAXON LIFT CORP.'S
NOTICE OF REMOVAL AND DEMAND
FOR JURY

(CLERK'S ACTION REQUIRED)

19
20 **TO: Clerk of the Court, United States District Court for The District of Oregon,**
21 **Portland Division.**

22 **PLEASE TAKE NOTE** that Defendant Maxon Industries, Inc. dba Maxon Lift Corp.
23 ("Maxon"), hereby removes to this Court the state action described below in accordance with
24 28 U.S.C. §§ 1332, 1441 and 1446.

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DEFENDANT MAXON INDUSTRIES, INC. DBA
MAXON LIFT CORP.'S NOTICE OF REMOVAL AND
DEMAND FOR JURY– PAGE 1

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1 **I. STATE COURT ACTION**

2 The state court action to be removed is *Isiah A. Gonzalez v. Gibbs International, Inc., et*
3 *al.*, Multnomah County Circuit Court, Case No. 21CV45634. *See Declaration of Jennifer L.*
4 *Crow* (“*Crow Decl.*”), **Exhibit 1** (Complaint).

5 **II. TIME FOR REMOVAL**

6 Plaintiffs filed this action in Multnomah County Circuit Court on or about November
7 24, 2021 against Gibbs International, Inc. dba Gibbs Truck Centers and Maxon. *Crow Decl.*, ¶
8 2. The Complaint, brought against Maxon, is attached as **Exhibit 1** to the Declaration of Jennifer
9 L. Crow, filed herewith. Maxon received notice of the Complaint on December 14, 2021. *Crow*
10 *Decl.*, ¶ 5. Pursuant to 28 U.S.C. § 1446(b), a party may remove an action to Federal District
11 Court within 30 days of service of process. Maxon has until January 13, 2022, or 30 days after
12 notice of Plaintiff’s Complaint, to move for removal to this Federal District Court. Therefore,
13 this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b).

14 **III. APPLICABLE LAW**

15 A party may seek removal of a State Court action where the amount in controversy
16 exceeds \$75,000 and the action is between citizens of different states. 28 U.S.C. § 1332(a)(1).

17 **IV. BASIS FOR REMOVAL**

18 1. This is a personal injury/products liability case arising out of Plaintiff’s claim for
19 alleged damages caused by an accident on or around November 29, 2019.

20 2. Plaintiff’s Complaint seeks \$14,086,625.91 in damages from Maxon. *Crow Decl.*,
21 ¶ 2.

22 3. Upon information and belief, Plaintiff is an individual domiciled in the State of
23 Oregon. *Crow Decl.*, ¶ 6.

24 4. On the date Plaintiff’s Complaint was filed, and the date of the filing of this Notice
25 of Removal, Plaintiff is still believed to be an individual domiciled in the State of Oregon. *Crow*
26 *Decl.*, ¶ 6.

1 5. Maxon is a California corporation with its principal place of business in California.
2 *Decl. Crow* ¶, 7. Plaintiff's Complaint alleges Maxon is a foreign corporation. Per Plaintiff's
3 complaint, co-defendant is a Delaware corporation. Complaint, ¶ 1a).

4 6. On the date Plaintiff's Complaint was filed, and the date of the filing of this Notice
5 of Removal, Maxon was incorporated in the State of California with its principal place of
6 business in the State of California. *Crow Decl.*, ¶ 7.

7 7. Maxon is not a citizen of the State of Oregon as of the date of filing of Plaintiff's
8 Complaint, November 24, 2021, nor is Maxon presently a citizen of the State of Oregon. *Crow*
9 *Decl.*, ¶ 7.

10 **V. NOTICE TO STATE COURT AND ADVERSE PARTY**

11 Maxon will promptly file a copy of this Notice with the Clerk of the Multnomah County
12 Circuit Court and will give written notice to all adverse parties. 28 U.S.C. § 1446(d).

13 **VI. JURY DEMAND**

14 Maxon has not yet filed its Answer in Multnomah County Circuit Court. As permitted
15 by Fed. R. Civ. P. 58 and Fed. R. Civ. P. 81(c)(3), Maxon demands a jury trial.

16 **VII. PRESERVATION OF RIGHTS**

17 By removing this action to this Court, Maxon does not waive any defenses, objections,
18 or motions available to it under state or federal law. Maxon expressly reserves the right to move
19 for dismissal of Plaintiff's claim under Rule 12 of the Federal Rules of Civil Procedure.

20 **VIII. CONCLUSION**

21 WHEREFORE, Maxon requests that this action, *Isiah A. Gonzalez v. Gibbs*
22 *International, Inc., et al.*, Multnomah County Circuit Court, Case No. 21CV45634, be removed
23 to the United States District Court for the District of Oregon, Portland Division, pursuant to 28
24 U.S.C. §§ 1332, 1441, 1446, and hereby requests that this Court retain jurisdiction for all further
25 proceedings herein.

26 //

1 DATED this 20th day of December, 2021.

2
3 SCHEER.LAW PLLC

4
5 /s/ Jennifer L. Crow

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12 *Attorneys for Defendant Maxon Industries, Inc.*

13 *dba Maxon Lift Corp.*

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Oregon and the United States of America, that the following is true and correct:

I am employed by the law firm of Scheer.Law PLLC.

At all times hereinafter mentioned, I was and am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On the date set forth below I served the document(s) to which this is attached, in the manner noted on the following person(s):

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
<u>CO/ Plaintiff:</u> J. Randolph Pickett Kimberly O. Weingart Shangar S. Meman Kyle T. Sharp Rachel M. Jennings Pickett Dummingan McCall LLP Centennial Block, Fourth Floor 210 SW Morrison Street Portland, OR 97204 randy@pdm.legal kim@pdm.legal shangar@pdm.legal kyle@pdm.legal rachelj@pdm.legal	() Via U.S. Mail (X) Via E-Mail () Via Facsimile () Via Overnight Mail
<u>CO/ Plaintiff:</u> Robert C. Kline, Jr. Kline Law Offices PC 121 SW Morrison Street, Suite 475 Portland, OR 97204 rob@klinelawpc.com	() Via U.S. Mail (X) Via E-Mail () Via Facsimile () Via Overnight Mail

DATED this 20th day of December, 2021 at Seattle, Washington.

/s/ Schuyler Todd

Schuyler Todd, Legal Assistant